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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/625,098

07/22/2003

Hiroki Akano

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8771

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26304

7590

11/09/2004

EXAMINER

KATTEN MUCHIN ZAVIS ROSENMAN  
575 MADISON AVENUE  
NEW YORK, NY 10022-2585

SOTOMAYOR, JOHN

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,098

Applicant(s)

AKANO, HIROKI

Examiner

John L Sotomayor

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. In response to the amendment filed 7/15/2004, claims 1-13 are pending.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Marshall et al (US 5,215,464).

Regarding claim 1, Marshall et al discloses a laser transmitter/receiving system for target practice in which a laser transmitter is provided with a modulator for modulating a laser signal by position information of the laser transmitter (Col 3, lines 49-62), an information extractor for extracting position information from a received laser signal (Col 3, lines 62-66), and a judgment unit for judging a shot effect using the extracted position information (Col 4, lines 3-15).

Regarding claim 2, Marshall et al discloses a laser transmitter/receiving system for target practice in which a laser transmitter transmits a modulated laser signal in response to a signal from a shooting apparatus of a weapon (Col 6, lines 18-38).

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Regarding claim 3, Marshall et al discloses a laser transmitter/receiving system for target practice in which the position information of the laser transmitter side is the position information output from a shooting side position finder of said laser transmitter side (Col 4, lines 2-15).

Regarding claim 4, Marshall et al discloses a laser transmitter/receiving system for target practice in which the position information is the most recent position information in the continuously recorded position information (Col 4, lines 10-15).

Regarding claim 5, Marshall et al discloses a laser transmitter for target practice comprising a modulator for modulating a laser signal by position information of the laser transmitter side (Col 8, lines 1-14).

Regarding claim 6, Marshall et al discloses a laser transmitter for target practice in which the position information of the laser transmitter side is the position information output from a shooting side position finder of said laser transmitter side (Col 4, lines 2-15).

Regarding claim 8, Marshall et al discloses a laser transmitter for target practice in which the position information of the laser transmitter side is the position information output from a shooting side position finder of said laser transmitter side (Col 4, lines 2-15).

Regarding claim 9, Marshall et al discloses a laser transmitter for target practice in which a modulator for modulating a laser signal by position information, wherein a responsive laser signal is modulated by position information and transmits position information of a shooting side apparatus (Col 8, lines 1-25).

Regarding claim 10, Marshall et al discloses an apparatus for target practice in which a judgment unit for judging the shot effect using position information from a received laser signal (Col 4, lines 3-15).

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Regarding claim 11, Marshall et al discloses an apparatus for target practice comprising a judgment unit for judging a shot effect in accordance with a distance obtained from position information extracted from received laser signal and position information of the own receiver side (Col 10, lines 7-21).

Regarding claim 13, Marshall et al discloses a controller for transmitting position information to a laser transmitter provided with a modulator for modulating a laser signal by the position information, wherein responsive position information of the modulator is transmitted to the laser transmitter (Col 8, lines 1-25).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marshall et al in view of Eichweber (US 4,695,256).

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Regarding claims 7 and 12, Marshall et al discloses a laser transmitter and apparatus for target practice comprising a judgment unit for judging the effect of a shot based upon position information (Col 10, lines 7-21). Marshall et al does not specifically disclose varying munition type (claim 7) or a munition type parameter recorder for recording munition type parameters for each shot munition type (claim 12). However, Eichweber teaches that munition type parameters can be fed into a control and computing unit that include such munition type information as munition type and ballistic data for each munition type (Col 6, lines 44-48). Therefore, it would have been obvious to one of ordinary skill in the art to provide an apparatus for target practice comprising a judgment unit for judging the effect of a shot based upon position information as disclosed by Marshall et al with a munition type parameter recorder for recording munition type parameters for each shot munition type as taught by Eichweber for the purposes of providing greater flexibility in training users of the system for a plurality of munition types.

### ***Response to Arguments***

Applicant's arguments filed July 15, 2004 have been fully considered but they are not persuasive. Applicant's representative presents the argument that the application claims recite a laser transmitting/receiving system for target practice that includes, or is coupled to, a laser modulator for encoding position information. However, the claim recitation is that the laser transmitter is "provided with" such a modulator. In the broadest reasonable interpretation of the claims this language does not recite or even imply that the system includes or is coupled to a modulator. In addition, there is no recitation for a position encoding function in the claims as presented. For these reasons, Applicant's arguments are unpersuasive and the rejection is maintained.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L Sotomayor whose telephone number is 703-305-4558. The examiner can normally be reached on 6:30-4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jls  
November 3, 2004



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